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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,430

03/16/2004

John Kim

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MILLER LAW GROUP, PLLC  
AND FORD GLOBAL TECHNOLOGIES, INC.  
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EXAMINER

SKURDAL, COREY NELSON

ART UNIT

PAPER NUMBER

3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/801,430	<b>Applicant(s)</b> KIM ET AL.	
	<b>Examiner</b> Corey N. Skurdal	<b>Art Unit</b> 3782	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Specification***

1. The disclosure is objected to because of the following informalities: the cross-reference to related applications is incorrect. The paragraph should read:

"This application is a continuation-in-part of U.S. Patent Application Serial No. 09/682,594, filed September 25, 2001, which claims priority to U.S. Provisional Patent Application Serial No. 60/259,005 filed on December 29, 2000."

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said side rail members" in line 10. There is insufficient antecedent basis for this limitation in the claim. Only one side rail member has been defined in line 6, making it unclear if claim 1 is meant to recite multiple side rail members or just one.

3. Claims 9 and 16 recite the limitation "said trim piece" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

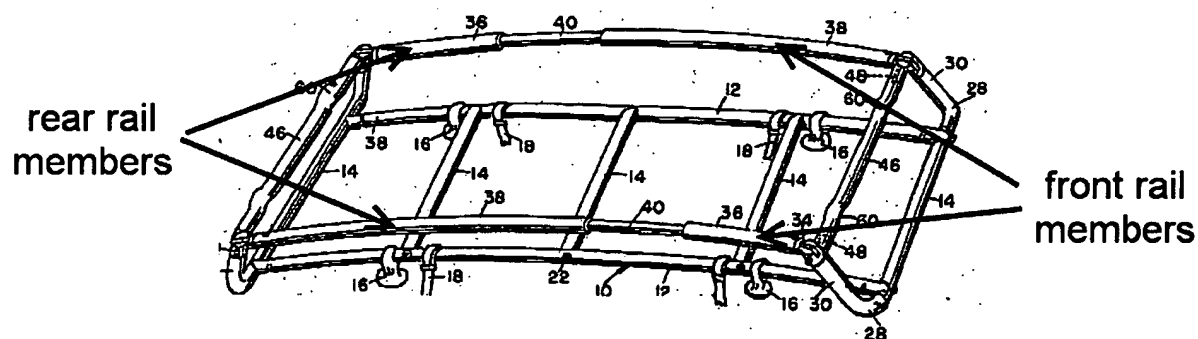
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 10 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Guevara (US 3,002,664).

Regarding claims 1 and 2, Guevara discloses a roof rack for a vehicle having a horizontal roof and vertical side portion comprising: a storage surface between/ on members 12 and 14, a pair of laterally disposed front side rail members and a pair of laterally disposed rear side rail members (see Examiners Figure 1), said side rail members being generally positionable perpendicular to said one storage surface, and hinge bars 28 and 30 supported on said storage surface for permitting pivotal movement of said side rails between a raised basket forming position (Figure 1) and a lowered collapsed position (Figure 2).

Regarding claims 3 and 4, Guevara discloses front and rear transverse rail members 46 which are pivotally movable between a raised basket-forming position (Figure 1) and a lowered collapsed position (Figure 2).

Regarding claim 5, Guevara discloses the claimed invention wherein any number of storage surfaces can be defined within and on the carrier. In the instant case, Examiner is considering two laterally disposed storage surfaces to be defined on and between side rails 36 and 38, such that each storage surface is considered movable



***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-8, 11-15, and 18-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Guevara in view of Spanke (3,963,136).

Regarding claim 6, 11, 12, and 18 Guevara discloses the invention substantially as claimed including: a pair of longitudinally spaced track members 14, the hinge bars 28 and 30 being pivotally supported by said track members, and a plurality of longitudinally extending support members 12 interconnecting said track members. Guevara does not disclose connecting members or guide rails mounted to the vehicle roof portion. However, Spanke teaches a retractable rack for a vehicle, the rack having a pair of guide rails 11 which are mounted to the vehicle roof portion and connecting members 13-16 which are slideably received in said guide rails, each connecting member pivotally connecting (in that they rotate) track members 70 to permit lateral movement along said guide rails, and to permit the rack to be pivotally movable to position the racks storage surface generally vertical along the side portion of the vehicle (Figure 8 and 9). Therefore, it would have been obvious to one skilled in the art at the time of invention to make the rack of Guevara retractable and positionable along the side of the vehicle, in the manor taught by Spanke, in order to facilitate loading the rack.

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Regarding claims 7 and 14, modified Guevara discloses trim members 40 selectively inter-engageable between adjacent front and rear side rail members 36 and 38, said trim member being movable within the side rail members to permit a gap to be formed between said adjacent front and rear side rail members (the gap shown in both raised and lowered position of Figures 1 and 2), wherein the side rail members can be lowered below said guide rails when the modified Guevara device is positioned at the side of the vehicle (as illustrated by Figure 8 or Guevara).

Regarding claims 8 and 15, modified Guevara discloses the claim invention wherein the trim member 40 is housed within one of said side rail members and is extendible therefrom (Figure 1, 2, and 4) to engage the other said adjacent front/rear side rail when the rack is in said raised position, and furthermore wherein the trim member is retracted into one of said side rail members when the rails are placed in the lowered collapsed position.

Regarding claims 13 and 19, modified Guevara discloses front and rear transverse rail members 46 which are pivotally movable between a raised basket-forming position (Figure 1) and a lowered collapsed position (Figure 2).

Regarding claim 20, modified Guevara discloses the claim invention as applied to claims 7 and 8 above.

***Allowable Subject Matter***

8. Claims 9 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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**Conclusion**

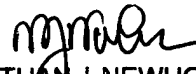
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey N. Skurdal whose telephone number is 571-272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CNS  
3/29/07

  
NATHAN I. NEWHOUSE  
SUPERVISOR, PATENT EXAMINER